IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

WP(C).No. 29734 of 2007(M)

PETITIONERS:
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1. THE KOTTAPPADY SERVICE CO-OPERATIVE BANK LTD., NO.E.155, P.O.KOTTAPPADY, ERNAKULAM DIST. REPRESENTED BY ITS SECRETARY.

2. THE BOARD OF DIRECTORS, THE KOTTAPPADY SERVICE CO-OPERATIVE BANK LTD., NO.E 155, P.O.KOTTAPPADY, ERNAKULAM DIST. REPRESENTED BY ITS PRESIDENT.

BY ADV. SRI.N.K.SUBRAMANIAN
SRI.S.ANANTHAKRISHNAN

RESPONDENTS:
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1. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF CO-OPERATION, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), ERNAKULAM, KOCHI - 16.

3. AMBIKA, W/O.SUKUMARAN, PLACHERRY HOUSE ARAVAPPARA P.O., PERUMBAVOOR TALUK, ERNAKULAM DISTRICT.

BY ADV. SRI.N.K.KARNIS --- R3
GOVERNMENT PLEADER SRI. P.K.RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 29734/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE GO RT NO. 448/07/CO-OP DT. 4/7/07 BY R1.

EXT.P2. COPY OF THE ORDER NO. CRP 1/482/05 DT. 27/5/06 BY R2.

EXT.P3. COPY OF THE DISMISSAL ORDER DT. 24/11/04.

EXT.P4. COPY OF THE PROCEEDINGS IN APPEAL DT. 19/4/05.

EXT.P5. COPY OF THE APPEAL U/S. 83(1)(J) DT. 3/07/2006.

EXT.P6. COPY OF THE ADDL. STATEMENT DT. 21/05/07.

RESPONDENT'S EXHIBITS **NIL.**

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THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No.29734 of 2007-M

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Dated this the 13th day of November, 2007.

JUDGMENT

1. The first petitioner is a co-operative bank. The second petitioner is its Board of Directors. The third respondent was proceeded against on account of indiscipline. That resulted in a punishment being imposed. The third respondent appealed to the Board. That appeal was rejected. After the coming into force of the Act 1/2000, i.e., after 2-1-2003, the third respondent filed an application on 23-7-2005 before the Joint Registrar of Co-operative Societies invoking Rule 176 of the Kerala Co-operative Societies Rules seeking to rescind the resolution of the Board affirming the punishment. That was allowed. The bank filed an appeal before the Government, which

has been dismissed as per Ext.P1 order.

2. The aforesaid facts, in the backdrop of the decision of the Division Bench of this Court in **Raveendran v. State of Kerala** [2007 (3) KLT 558] affirming **Prakasini v. Joint Registrar** [2006(1) KLT 199], would show that the proceedings, which commenced with the application dated 23-7-2005 filed by the third respondent before the Joint Registrar of Co-operative Societies, was unsustainable in view of the clear terms of Section 69 of the Kerala Co-operative Societies Act.

3. Under the aforesaid circumstances, the impugned Ext.P2 and the appellate order Ext.P1 are void. They are accordingly quashed. As a result, the petition of the third respondent dated 23-7-2005 referred to at Sl.No.2 in Ext.P2 shall be taken up by the Joint Registrar and forwarded to the appropriate arbitration court which will treat it as an application for the purpose of commencement of

proceedings in terms of Section 69 of the Act. The parties will be at liberty to adduce further pleadings and have the adjudication completed before the arbitrator in accordance with law. Having regard to the fact that the third respondent had filed her complaint before the Joint Registrar of Co-operative Societies way back in July, 2005, it is directed that the arbitrator will make every endeavour to expedite the final disposal of the arbitration case, at any rate, within an outer limit of six months from the date of receipt of a copy of this judgment and the communication of the Joint Registrar of Co-operative Societies in terms of the aforesaid directions, whichever is later. The Joint Registrar is directed to do the needful in terms of this judgment within a fortnight of receipt of a copy of this judgment.

The writ petition is allowed as above.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

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